UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/568,240 | 02/14/2006 | Naomi Nishikata | VPM-00101 | 9555 |

26339          7590          04/19/2010
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| EXAMINER |
|---|
| HUYNH, NAM TRUNG |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2617 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 04/19/2010 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)☒ Responsive to communication(s) filed on _18 March 2010_.

2a)☐ This action is **FINAL**.    2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)☒ Claim(s) _1-18_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) _1-3 and 11-18_ is/are allowed.

6)☒ Claim(s) _4-10_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

## Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *  c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

## DETAILED ACTION

### *Response to Amendment*

Applicant's request for reconsideration of the finality of the rejection of the

last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### *Claim Rejections - 35 USC § 103*

1.     The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.     The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.     Determining the scope and contents of the prior art.
2.     Ascertaining the differences between the prior art and the claims at issue.
3.     Resolving the level of ordinary skill in the pertinent art.
4.     Considering objective evidence present in the application indicating
       obviousness or nonobviousness.

3.     Claims 4-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Okada (US 7,069,044) in view of Masuyama et al. (US 2004/0029640).

Regarding claim 4, Okada teaches a mobile communication terminal (figure 1),

comprising:

memory means for storing data (column 8, lines 65-67; column 9, lines 1-10;

game key registers);

an operating system (game CPU and components for utilizing the mobile device

in game mode) arranged to access data stored in said memory means (column 6, lines

40-47; game CPU access game key register for data relating to the game);

an application execution environment (flash memory where game program is

stored) that is executable on said operating system and that executes a platform-

independent application (game program), said platform-independent application having

access to data stored in said memory means;

wherein said application execution environment executes said platform-

independent application using the detection result data stored in said memory means

(column 7, lines 12-25; column 8 lines 65-67; column 9, lines 1-10; game program is

operated by data held in game key register).

However, Okada does not explicitly teach the mobile communication terminal

comprises a 3-axis magnetic sensor and a 2-axis acceleration sensor used as detection

means for detecting at least one of position, direction, attitude and movement of the

mobile communication terminal in connection with at least one axis of a coordinate

system in accordance with a detection instruction generated by said application

execution environment according to a description of said platform-independent

application; and memory process means for storing detection result data acquired

based on detection results by said detection means in said memory means, wherein the

detection results include information concerning changes to the at least one of position,

direction, attitude and movement of the mobile communication terminal in connection with the at least one axis. Masayuma discloses a game system and game information storage medium used for the same (title). Masuyuma teaches:

a 3-axis magnetic sensor and a 2-axis acceleration sensor used as detection means for detecting at least one of position, direction, attitude and movement of the mobile communication terminal in connection with at least one axis of a coordinate system in accordance with a detection instruction generated by said application execution environment according to a description of said platform-independent application (game program) (paragraphs 99, 108, the detecting means and acceleration sensor are used for instructions to play a game); and

memory process means for storing detection result data acquired based on detection results by said detection means in said memory means (data stored in latches), wherein the detection results include information concerning changes to the at least one of position, direction, attitude and movement of the mobile communication terminal in connection with the at least one axis (paragraphs 102, 105; latches store X,Y,Z axis detection data). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Okada to allow the game to be played using movement detection, as taught by Masuyama, in order to allow the user to play a game by tilting, moving, or giving impact to the mobile station thereby enhancing the interest and experience of the game.

Regarding claim 5, Okada teaches a mobile communication terminal (figure 1), comprising:

an operating system (game CPU and components for utilizing the mobile device in game mode) arranged to access data stored in memory means (game key register) (column 6, lines 40-47; game CPU access game key register for data relating to the game);

an application execution environment (flash memory where game program is stored) that is executable on said operating system and that executes a platform-independent application (game program), said platform-independent application having access to data stored in said memory means;

wherein said application execution environment executes said platform-independent application using the calculation result data stored in said memory means (column 7, lines 12-25; column 8 lines 65-67; column 9, lines 1-10; game program is operated by data held in game key register).

However, Okada does not explicitly teach detection means for detecting at least one of position, direction, attitude and movement of said mobile communication terminal in connection with at least one axis of a coordinate system; and data process means for performing data process of assigning the detection data of said detection means to predetermined arithmetic expression for calculation and storing the calculation result data in said memory means, wherein the detection data includes information concerning changes to the at least one of position, direction, attitude and movement of the mobile communication terminal in connection with the at least one axis. Masayuma discloses a game system and game information storage medium used for the same (title). Masuyuma teaches:

detection means for detecting at least one of position, direction, attitude and movement of said mobile communication terminal in connection with at least one axis of a coordinate system (detecting means) (paragraph 99); and

data process means for performing data process of assigning the detection data of said detection means to predetermined arithmetic expression (count value) for calculation and storing the calculation result data in said memory means, wherein the detection data includes information concerning changes to the at least one of position, direction, attitude and movement of the mobile communication terminal in connection with the at least one axis (paragraphs 103, 104). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Okada to allow the game to be played using movement detection, as taught by Masuyama, in order to allow the user to play a game by tilting, moving, or giving impact to the mobile station thereby enhancing the interest and experience of the game.

Regarding claim 6, Okada teaches a mobile communication terminal (figure 1), comprising:

an operating system (game CPU and components for utilizing the mobile device in game mode) arranged to access data stored in memory means (game key register) (column 6, lines 40-47; game CPU access game key register for data relating to the game);

an application execution environment (flash memory where game program is stored) that is executable on said operating system and that executes a platform-

independent application (game program), said platform-independent application having

access to data stored in said memory means;

wherein said application execution environment executes said platform-

independent application using linked data stored in said memory means (column 7,

lines 12-25; column 8 lines 65-67; column 9, lines 1-10; game program is operated by

data held in game key register).

However, Okada does not explicitly teach: detection means for detecting at least

one of position, direction, attitude and movement of said mobile communication terminal

in connection with at least one axis of a coordinate system; and data process means for

performing data processes of linking mutually between detection data of said detection

means or data calculated from this detection data and other data acquired by means

other than said detection means, and storing the linked data in said memory means,

wherein the detection data includes information concerning changes to the at least one

of position, direction, attitude and movement of the mobile communication terminal in

connection with the at least one axis.  Masayuma discloses a game system and game

information storage medium used for the same (title).  Masuyuma teaches:

detection means for detecting at least one of position, direction, attitude and

movement of said mobile communication terminal in connection with at least one axis of

a coordinate system (detecting means) (paragraph 99); and

data process means (CPU) for performing data processes of linking mutually

between detection data of said detection means or data calculated from this detection

data (acceleration sensor output data) and other data (game map information) acquired

by means other than said detection means (acquired from game program), and storing

the linked data in said memory means (work RAM), wherein the detection data includes

information concerning changes to the at least one of position, direction, attitude and

movement of the mobile communication terminal in connection with the at least one axis

(figure 17). Therefore it would have been obvious to one of ordinary skill in the art at

the time the invention was made to modify the invention of Okada to allow the game to

be played using movement detection, as taught by Masuyama, in order to allow the user

to play a game by tilting, moving, or giving impact to the mobile station thereby

enhancing the interest and experience of the game.

Regarding claim 7, Okada teaches a mobile communication terminal (figure 1),

comprising:

an operating system (game CPU and components for utilizing the mobile device

in game mode) arranged to access data stored in memory means (game key register)

(column 6, lines 40-47; game CPU access game key register for data relating to the

game);

an application execution environment (flash memory where game program is

stored) that is executable on said operating system and that executes a platform-

independent application (game program), said platform-independent application having

access to data stored in said memory means;

wherein said application execution environment executes said platform-

independent application using linked data stored in said memory means (column 7,

lines 12-25; column 8 lines 65-67; column 9, lines 1-10; game program is operated by data held in game key register).

However, Okada does not explicitly teach: detection means for detecting at least one of position, direction, attitude and movement of said mobile communication terminal in connection with at least one axis of a coordinate system; and data process means for performing a data process of specifying at least two of detection data of said detection means or data calculated from the detection data, which meet predetermined conditions, and storing the specified data in said memory means, wherein the detection data includes information concerning changes to the at least one of position, direction, attitude and movement of the mobile communication terminal in connection with the at least one axis. Masayuma discloses a game system and game information storage medium used for the same (title). Masuyuma teaches:

detection means for detecting at least one of position, direction, attitude and movement of said mobile communication terminal in connection with at least one axis of a coordinate system (detecting means) (paragraph 99); and

data process means for performing a data process of specifying at least two of detection data of said detection means or data calculated from the detection data (X or Y axis outputs), which meet predetermined conditions (during a period), and storing the specified data in said memory means, wherein the detection data includes information concerning changes to the at least one of position, direction, attitude and movement of the mobile communication terminal in connection with the at least one axis (figure 17). Therefore it would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify the invention of Okada to allow the game to be played using movement detection, as taught by Masuyama, in order to allow the user to play a game by tilting, moving, or giving impact to the mobile station thereby enhancing the interest and experience of the game.

Regarding claim 9, Masuyama teaches said detection means includes angle detection means for detecting an angle against the standard angle around a virtual axis leading to a specified direction (paragraph 99, 113).

Regarding claim 10, Masuyama teaches said detection means includes acceleration detection means for detecting acceleration toward a specified direction working on said mobile communication terminal (paragraph 99).

4.      Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Okada (US 7,069,044) in view of Masuyama et al. (US 2004/0029640), as applied to claims 5, 6, or 7 above, and further in view of Hartman et al. (US 7,175,529).

The combination of Okada and Masuyuma teaches the limitations set forth in claims 5, 6, or 7, and that the mobile communication terminal further comprises radio communication means for communicating outside by wireless communication utilizing radio waves (paragraph 98), but does not explicitly teach radio wave strength confirmation means for confirming strength of the radio waves utilized by said radio communication means at specified time intervals; wherein said data process means is used as at least one part of said radio wave strength confirmation means and performs said data process when confirming radio wave strength.  Hartman teaches a RF

receiver module for receiving game signals that comprises a receive signal strength

indicator (RSSI) level detector module for detecting signals from a game controller that

transmits at different time intervals.  If the RSSI level is of sufficient strength the

detector module sends a data enable signal (confirmation of signal strength at specified

time intervals).  When the signal is considered valid, the saved game data (perform data

process) is passed (column 5, lines 52-67, column 6, lines 26-45).  Therefore it would

have been obvious to one of ordinary skill in the art at the time the invention was made

to modify the combination of Okada and Masuyama, to include a RSSI level indicator,

as taught by Hartman, in order to inform a user of the invention of the signal strength for

playing a game using the modem.  This modification enhances the flexibility of the

invention by allowing a user to take action in response to signal strength (i.e. a user

may move to a location with stronger signal strength while participating in a game).

### *Allowable Subject Matter*

5.      Claims 1-3 and 11-18 are allowed.

### *Response to Arguments*

6.      Applicant's arguments with respect to claims 4-10 have been considered but are

moot in view of the new ground(s) of rejection.

## *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NAM HUYNH whose telephone number is (571)272-5970. The examiner can normally be reached on 8 a.m.-5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Eng/
Supervisory Patent Examiner, Art Unit 2617

/Nam Huynh/
Examiner, Art Unit 2617